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THURSDAY, APRIL 14, 1808.

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ANNAPOLIS, THURSDAY, April 14, 1808.

Communicated by the President to Congress.

CORRESPONDENCE

BETWEEN MR. MADISON AND MR. ROSE.

MR. ROSE'S ULTIMATUM.

Washington, March 17th, 1808.

SIR, I am deeply impressed with the sense of his majesty's anxiety, that full effect should be given to those views of justice and moderation, by which his conduct has been regulated through the whole of the unfortunate transaction whence the present differences have arisen, and of the disappointment of which he would learn the frustration of his and equitable purposes; I have felt it incumbent on me, on the receipt of the letter, which you did the honour to address to me on the fifth inst, to answer to this matter the most ample and serious consideration. It is with the most painful sensations, that I find myself on the result of it under necessity of declining to enter into the terms of negotiation, which by direction of the President of the United States, you therein offer. I do not feel myself competent in the present instance, to depart from the instructions, which I stated in my letter of the 26th of January last, and which preclude me from acceding to the condition thus proposed. I would add that I am absolutely prohibited from entering upon matters unconnected with the specific act I am authorized to discuss, much less can I give any pledge concerning them. The condition suggested, moreover, leads to the direct inference, that the proclamation of the President of the United States of the 2d July, 1807, is maintained as an equivalent for reparation for the time being, or as a compulsion to make it.

It is with the more profound regret that I feel myself under the necessity of declaring, that I am unable to act upon the terms thus proposed, as it becomes my duty to inform you, in conformity to my instructions, that on the rejection of the demand stated in my former letter, on the part of his majesty, the mission is terminated. And as his majesty's government in providing me with those instructions, did not conceive that after the declaration of his sentiments respecting the affair of the Chesapeake was made known to this government, the state of any negotiations pending or unexpired between the two nations could justify the perseverance in the enforcement of the president's proclamation, I can exercise no discretion on this point.

As on a former occasion I detailed though minutely, the motives for that demand on the part of his majesty, which I wish to much concern myself to deem inadmissible by the government of the United States, I should here abstain from an exposition of them, which visibly can have no further effect upon the negotiation, if I did not deem it essential that they should not be left under any misapprehension which I might be able to remove. I shall, therefore, take a short review of the transaction, which has given rise to these discussions, in order the more correctly to determine the soundness of the principle on which that demand is made.

Certain deserters from his majesty's navy, many of whom his natural born subjects, having entered into the service of the United States, were repeatedly and lawfully demanded by the British officers, of the recruiting officers of the United States, but were retained in their new service. As it was a matter of notoriety that several of these deserters were on board the frigate of the United States the Chesapeake, they were demanded of that frigate on the high seas by his majesty's ship Leopard, and all knowledge of their presence on board being denied, she was attacked and four of them, one avowedly a native Englishman, were taken out of her. Without being deterred by the consideration of how far circumstances hostile in their nature had provoked, though they undoubtedly by no means justified this act of the British officer, his majesty's government directed, that a positive disavowal of the right of search asserted in this case, and of the act of the British officer as being unauthorized, and a promise of reparation, should be conveyed to the American minister in London, before he had made any representation by order of the United States. This disavowal, made on the 2d of August last, was transmitted by him to his government, before the 6th of that month. But before Mr. Monroe had received his orders to demand reparation, his majesty learnt, with what surprise it is needless to dwell upon, that the president of the United States had interdicted by proclamation bearing date the 2d of July, 1807, the entry of all their ports to the whole of his navy. This surprise was certainly increased when in the letter delivered by that minister

to require redress for the wrong, although it went into details unconnected with it, not only no concern was expressed on the part of the United States, at having felt themselves compelled to enact measures of so much injury and indignity towards a friendly power, but no mention was made of the causes of such measures being resorted to, or even of the fact of their having been adopted. In addition to the embarrassment arising from these circumstances, and the insufficiency of the explanations subsequently given to Mr. Canning, the introduction of a subject foreign to that of the complaint became the main impediment to the success of the discussions which took place in London. When I had the honour to open the negotiation with you, sir, as I had learnt that the president's proclamation was still in force, it became my duty conformably to my instructions, to require its recall as a preliminary to further discussion: had it not been in force, I was not ordered to have taken it into consideration in the adjustment of reparation, and it was considered as hardly possible that it should not have been recalled immediately upon the knowledge of his majesty's disavowal of the attack upon the Chesapeake, as an unauthorized act. But his majesty could not suffer the negotiation to be carried on, on his behalf, under an interdict, which even if justifiable in the first moment of irritation, cannot be continued after the declaration of his majesty's sentiments upon the transaction, except in a spirit of hostility.

It might have been fairly contended that in the first instance, the exercise of such an act of power, before reparation was refused or unduly protracted, was incompatible with the purposes and aims of pacific negotiation, and with a demand of redress through that channel; but such have been his majesty's conciliatory views, that this argument has not been insisted on, although it might now be the more forcibly urged, as it appears that the government of the United States was from the first sensible, that, even had the hostility been meditated by the British government, it would not have commenced it in such a manner. But the exception taken, is to the enforcement continued up to the present time, of measures highly unfriendly in their tendency, persisted in, not only after the disavowal in question, the promise of the proffer of suitable reparation, and the renewed assurances of his majesty's amicable disposition, but after security has been given in a public instrument bearing date the 16th of October, 1807, that the claim to the seizure of deserters from the national ships of other powers, cannot again be brought forward by his majesty's naval officers; it is unnecessary to dwell upon the injury and indignity to which his majesty's service is exposed, both as touching the freedom and security of correspondents of his agents and accredited ministers in the United States, or as resulting from a measure which in time of war, excludes the whole of his navy from all their ports, which ports are completely open to the fleets of his enemies: it will be sufficient to observe, that even where exemptions from it are granted, they are made subject to such conditions, that of the three last British ships of war, which have entered these ports upon public business, two of them, his majesty's ship Statira, having on board a minister sent out for the adjustment of the present differences, and a schooner bearing dispatches, in consequence of their inability to procure pilots, were obliged to enter these waters without such assistance, and were exposed to considerable danger. Great-Britain, by the forms established, could repair the wrong committed, even to the satisfaction of the United States, no otherwise than by the channel of negotiation; yet she avowed distinctly, that a wrong was committed, and that she was ready to make reparation for it; it cannot therefore be contended that the unavoidable delay of actual reparation subjected her to the imputation of persisting in an aggression, which was disclaimed from the first; if this is true, however much she will regret any impediment in the adjustment of a difference, in which the feelings of a nation are so materially interested; can she consistently with a due care of her own honour and interests, allow it to be concluded on her part, under an adherence to a conduct, which has a decided character of enmity in the proceedings held towards her by the other party.

I know not in what view the perseverance in the president's proclamation up to this moment can be considered, but in that of a measure of retaliation; or of self-assumed reparation; or a measure intended to compel reparation; unless it be that which, it I rightly understand, you define it to be, a measure of precaution.

If, when a wrong is committed, retaliation is instantly resorted to by the injured party, the door to pacific adjustment is closed, and the means of conciliation are precluded. The right to demand reparation is incompatible with the assumption of it. When parties are in a state of mutual hostility, they are so far on a footing, and as such they may treat; but a party disclaiming every unfriendly intention, and giving unequivocal proofs of an amicable disposition, cannot be expected to treat with another whose conduct

towards it has the direct effects of actual hostility. If then, the enforcement of the president's proclamation, up to the present moment, is a measure of self-assumed reparation; it is directly repugnant to the spirit and fact of amicable negotiation: if it is a measure to compel reparation it is equally so: and by the perseverance in it, Great-Britain is dispensed with the duty of proffering redress. But, if it is a measure of precaution, in order to secure reparation, or in order to compel it, it falls under the objections I have just stated. If it is a precaution adopted as a guard against acts of violence apprehended on the part of his majesty's naval officers, it surely cannot be considered as being as effectual a security as that arising from the renewed assurances of his majesty's friendly disposition, which imply a due observance of the rights of nations with which Great-Britain is in amity, by all persons holding authority under his majesty's government; from the disavowal of the pretension of the search of national ships; and from the further assurance of that disavowal given in his majesty's proclamation of the 16th of October last: neither under these concurrent circumstances can the plea of necessity be maintained; and if such a proceeding has not the plea of necessity, it assumes the character of aggression. If these concurrent securities against such an apprehension have any value, the necessity no longer exists; if they are of no value, negotiation cannot be attempted, as the basis upon which it rests, the mutual confidence of the two parties would be wholly wanting.

From the moment after the unfortunate affair of the Chesapeake, that his majesty's naval commanders in these waters had ascertained that they were safe from the effervescence of that popular fury, and under which the most glaring outrages were committed, and by which they were very naturally led to the supposition that they were objects of particular hostility, and that a state of war against them, requiring precautions on their part, had commenced, no conduct has been imputed to them, which could vindicate the necessity of maintaining in force the president's proclamation. Since that time such of those officers as have been necessitated by the circumstances of the war to remain in these waters, have held no communication with the shore, except in an instance too trifling to dwell upon, and instantly disavowed by the commanding officer; and they have acquiesced quietly in various privations, highly prejudicial to the service they were upon, and in consequence of an interdict, which had they been regardless of their duties towards a state in amity with their sovereign, and had they not carefully repressed the feelings its tone and language had a direct tendency to provoke in them, would have rather excited than have averted the evils it was stated to be intended to prevent; were they regardless of these duties, it was unnecessary. Had they felt themselves obliged completely to evacuate the waters of the United States, especially whilst an enemy's squadron was harboured in them, they could have done it; but under the admission of hostile compulsion, and under such compulsion, carried into full effect, his majesty could not have dissimulated the extent of the injury received.

In the several cases adduced, in which Great-Britain required certain preliminaries, previously to entering into negotiation, she regulated her conduct by the same principles to which she now adheres, and refused, whilst no hostility was exhibited on her part, to treat with powers, whose proceedings denoted it towards her; and who maintained their right in what they had assumed.

From the considerations thus offered, I trust that neither the order of reason or that of usage are in contradiction to the demand I have urged, nor am I aware how the order of time opposes the revocation in the first instance of that act, which affects injuriously one of the parties and is still avowed by the other.

The subject is thus presented to you, sir, in the light which it was natural that it should offer itself to his majesty's government. It certainly conceived the president's proclamation to rest chiefly, and most materially upon the attack made upon the frigate of the United States, the Chesapeake, by his majesty's ship the Leopard, although other topics were adduced as accessories. In this apprehension it may be held to have been sufficiently warranted, by the precise time at which, and the circumstances under which it was issued, and by its whole context, and the more so, as the impulse under which it was drawn up, appears to have been so sudden as to have precluded a due examination of all the grounds of allegation contained in it. And here I beg leave to assure you, that with respect to the spirit and tone of that instrument, it would be highly satisfactory to me, if I could feel myself justified in expressing on the part of his majesty any degree of coincidence with the opinions you have announced, or when thus appealed to, and making every allowance for the irritation of the moment, I could dissimulate the extreme surprise experienced by Great-Britain, that the government of a friendly nation, even before an amicable demand of reparation was made, and yet meaning